

## REMARKS

In previous actions, claims 1-4 of the present application have been rejected as being anticipated under 35 U.S.C. §102(b) based on the Schuricht et al reference by itself. Applicant responded to those previous rejections by arguing that the Schuricht et al reference does not and cannot disclose or suggest the use of a “product code” because the concept of product codes did not exist at the time the subject matter in the Schuricht et al reference was invented and described in that reference. In the latest Office Action, the Examiner has now additionally relied on the Ulvr et al reference as the basis for rejecting claims 1-4 under 35 U.S.C. §103(a) in combination with Schuricht et al.

This rejection is respectfully traversed because the Ulvr et al reference, like the Schuricht et al reference, has a filing date and a publication date that are significantly earlier than the relatively recent conception and usage of product codes, and therefore the Ulvr et al references does not and cannot provide any guidance to a person of ordinary skill in the field of designing postage meters with regard to the incorporation of an automatic designation of a product code in such a postage meter.

The Examiner stated the Ulvr et al reference teaches country-specific codes but, as the Examiner has noted, the country-specific codes disclosed in the Ulvr et al reference are *country-codes*, and are *not* (and could not be) *product codes*. The Examiner has unjustifiably, and without any explanation, equated the usage of country codes with the much more recent usage of product codes. These are two completely different items and the use of a country code in no manner guides or otherwise informs a person of ordinary skill in the field of designing postage meters as to how automatic implementation of *product codes* can be done.

A country-code is used for mailing items from countries such as Canada, wherein the postal rate is different dependent on different country destinations for the mailed item. In Canada, for example, if it is desired to mail a letter by surface mail from Canada to the United Kingdom, the user of a postage meter in Canada enters the designation "GB" (standing for Great Britain) in order to access the rate tables for mailing items from Canada to the United Kingdom. Dependent on the weight and size of the item, these postage rate tables that are country-specific for the United Kingdom determine the cost of making a regular surface mailing from Canada to the United Kingdom.

If, however, the person mailing such an item wishes to mail the item with a particular type of service, such as by registered mail, then such a person must undertake an *additional* step to determine the surcharge or additional fee that is associated with mailing an item by registered mail. This is completely different from the aforementioned determination of the postage fee that occurs due to the item being destined for the United Kingdom.

As explained in several previous responses filed by the Applicant, many countries are now requiring that the franking imprint that is printed on the mailed item include a designation of the product code for each type of special service, such as registered mail. Assuming that the user of a postage machine has not memorized each and every product code for each and every different type of product (mailing service), this means that the user of a postage machine must manually consult some type of table in order to know which product code to enter into the postage meter so that the correct designation will be printed in the franking imprint.

The subject matter disclosed and claimed in the present application concern a device for undertaking entry of the product code in an automated manner, so that the user is relieved of the burden of doing so manually.

As also supported by the evidence submitted by the Applicant in earlier responses, the product code concept, and the requirement in some countries (but still not in the United States) of embodying a designation of the product code in the printed franking imprint, have only recently been developed, and such concept and requirements did not even exist at the time contemporaneous with both the Schuricht et al and Ulvr et al references. Therefore, nothing in those references can provide any guidance to a person of ordinary skill in the field of designing postage meters in order to incorporate these very recently-developed concepts and requirements. Since a product code is a designation that is completely separate, and different from, the country code that is disclosed in the Ulvr et al reference, and in fact is used *in addition* to such a country code, the Ulvr et al reference can provide no guidance that goes beyond the automated entry of country codes. The only location where automated product code entry is disclosed is Applicant's specification. Applicant submits it is the epitome of hindsight and unjustified use of Applicant's disclosure to reject the claims of the present application using references that, because of their dates, do not and cannot provide any insight into the use of product codes in any form, much less in an automated manner.

Moreover, for the reasons discussed above, Applicant submits that there is no basis for the Examiner, or a person of ordinary skill in the relevant technology, to equate country codes with produce codes. If the Examiner, however, is in fact taking this position, then it is incumbent on the Examiner to provide some evidentiary basis

for this alleged equality between these two different and separately used items. Despite Applicant having continuously made the above arguments, the Examiner has never provided any such evidence in support, and continues to erroneously confuse and equate country codes with product codes, without bothering to respond to Applicant's evidentiary evidence to the contrary. Applicant therefore respectfully submits that the current rejection is not even a *prima facie* obviousness rejection, since it lacks the rigorous evidentiary support that is necessary to support such a rejection under the provisions of 35 U.S.C. §103(a).

If the Examiner cannot provide evidentiary support for the alleged equality or interchangeability between country codes and product codes, then the rejection should be withdrawn. If the Examiner believes that such evidentiary support exists, then the Examiner should provide citations to a source of such evidence, so that Applicant can respond thereto.

In the previous Office Action dated July 17, 2007, in paragraph 3 at page 2, the Examiner stated that the Applicant's admissions and the submitted document relating to product codes were being relied upon by the Examiner to substantiate that the use of product codes was well known before the time of the instant application. Applicant has never denied this fact, and indeed it was the Applicant that called this fact to the attention of the Examiner. If the fact that such product codes were well known before the time of the instant application, however, it seems that the Examiner should also find relevant that the use of product codes were *not* known at the time of the Schuricht et al and Ulvr et al inventions. The Examiner cannot properly rely on the consequences of a particular fact exclusively in a manner that is

detrimental to the present Applicant's position, while ignoring other consequences of the same fact that are in support of Applicant's position.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,



(Reg. 28,982)

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